

February 13, 2007

MINUTES OF THE CITY COUNCIL MEETING HELD FEBRUARY 13, 2007

A Regular meeting of the City Council of the City of Hopewell, Virginia, was held Tuesday, February 13, 2007, at 6:30 PM in the City Council Chambers, Municipal Building, 300 North Main Street, Hopewell, Virginia.

PRESENT: Steven R. Taylor, Mayor
Brenda S. Pelham, Vice Mayor
Christina J. Luman-Bailey, Councilor
Curtis W. Harris, Councilor
Kenneth B. Emerson, Councilor
E. Randy Sealey, Councilor
N. Gregory Cuffey, Councilor

Robert S. Herbert, Interim City Manager
Edwin N. Wilmot, City Attorney
Ann M. Romano, City Clerk

Mayor Taylor opened the meeting at 6:30 PM. Roll call was taken as follows:

Mayor Taylor	-	present
Vice Mayor Pelham	-	present
Councilor Bailey	-	present
Councilor Harris	-	present
Councilor Emerson	-	present
Councilor Sealey	-	present
Councilor Cuffey	-	present

CLOSED SESSION

At 6:30 PM motion was made by Vice Mayor Pelham, and seconded by Councilor Harris, to Convene into Closed Session to discuss Acquisition/Disposition of Property, Investment of Public Funds, Personnel, Appointments to Boards and Commissions, and an issue involving Potential Threat to Public Safety, in accordance with Virginia Code § 2.2-3711 (A) (1) (3) and (20). Upon the roll call, the vote resulted:

Mayor Taylor	-	yes
Vice Mayor Pelham	-	yes
Councilor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson		yes
Councilor Sealey	-	yes

OPEN SESSION

At 7:35 PM Council convened into Open Session. Councilors responded to the question: "Were the only matters discussed in the Closed Meeting public business matters lawfully exempted from open meeting requirements; and public business matters identified in the motion to convene into Closed Session?" Upon the roll call, the vote resulted:

Mayor Taylor	-	yes
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Vice Mayor Pelham	-	yes
Councilor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson		yes
Councilor Sealey	-	yes

Mayor Taylor opened the regular meeting at 7:36 PM. The Mayor indicated that Council would reconvene into closed meeting at the end of the regular meeting. Roll call was taken as follows:

Mayor Taylor	-	present
Vice Mayor Pelham	-	present
Councilor Bailey		present
Councilor Harris	-	present
Councilor Emerson	-	present
Councilor Sealey	-	present
Councilor Cuffey	-	present

Prayer was offered by Rev. Carolyn Brown, Associate Minister, Second Baptist Church, followed by the Pledge of Allegiance to the Flag of the United States of America.

CONSENT AGENDA

Motion was made by Councilor Emerson, and seconded by Councilor Harris, to approve the Consent Agenda: Minutes-Regular Meeting January 23, 2007, and Special Meeting January 25, 2007; Pending List; Information for Council Review: [ARLS minutes 12-12-06 & agenda 1-16-07; District 19 CSB minutes 10-26-06 & 12-7-06; Hopewell Twinning Assn. minutes 1-15-07; TSB minutes 12-5-06 & agenda 1-29-07]; Personnel Change Report; Financial Report; Public Hearings Announcements: None; Routine Approval of Work Sessions: March 13, 2007 – Tax Relief; Ordinances on second and final reading: Dangerous Dog Ordinance No. 2007-01; Proclamations/Resolutions/Presentations: None. Upon the roll call, the vote resulted:

Mayor Taylor	-	yes
Vice Mayor Pelham	-	yes
Councilor Cuffey	-	yes
Councilor Bailey	-	NO
Councilor Harris	-	yes
Councilor Emerson		yes
Councilor Sealey	-	yes

Motion to reconsider approval of the Consent Agenda was made by Vice Mayor Pelham, and seconded by Councilor Cuffey. Upon the roll call, the vote resulted:

Mayor Taylor	-	yes
Vice Mayor Pelham	-	yes
Councilor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson		yes
Councilor Sealey	-	yes

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Motion was made by Councilor Emerson, and seconded by Vice Mayor Pelham, to approve the Consent Agenda, with an amendment by Councilor Bailey to the City Council minutes dated January 23, 2007, to add under Unfinished Business – City Marina – Discussion of proposed renovations to docks, paragraph 4: *Councilor Bailey asked for an explanation for the discrepancy between the October and December plans of the Waterfront Development Committee.* Upon the roll call, the vote resulted:

Mayor Taylor	-	yes
Vice Mayor Pelham	-	yes
Councilor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson		yes
Councilor Sealey	-	yes

Mayor Taylor and City Manager Herbert, along with Nancy Treanor, Director of HDSS, made a presentation to Donna Post, Hopewell Department of Social Services, for Employee of the Quarter. Ms. Treanor commended Ms. Post on her dedication to the Department of Social Services, its employees and its clients. Mayor Taylor stated that the City's employees are its best asset.

Mayor Taylor announced at the January 23, 2007 Council meeting that there would be a presentation to Sheriff Deputy David Silvestro tonight; however Mr. Silvestro was unable to attend. The presentation will be made at the next Council meeting on February 27, 2007.

ORDINANCE NO. 2007-01

An Ordinance Amending and Reenacting Section 6-31.1 of the Code of the City of Hopewell, Virginia, to render the Section Consistent with State Law.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL, that Chapter 6, Section 6-31.1 of the Code of the City of Hopewell be amended and reenacted as follows:

Sec. 6-31.1. Control of dangerous or vicious dogs.

(a) As used in this section, "dangerous dog" means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat; however, when a dog attacks or bites ~~another dog~~ a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous if (i) no serious physical injury as determined by a licensed veterinarian has occurred to the ~~other dog or cat~~ as a result of the attack or bite, ~~or~~ (ii) ~~if both dogs~~ animals are owned by the same person, (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian, or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on ~~another~~ a dog or cat while engaged with an owner or custodian while participating in an organized, lawful dog handling event. "Vicious dog" means a canine or canine crossbreed that has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or, on or before July 1, 2006, by an animal control officer that it is a dangerous dog, provided that its owner has been given notice of that finding.

(b) Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within the city is a dangerous dog or vicious dog shall apply to a magistrate of the ~~jurisdiction city~~ city for the issuance of a summons requiring the owner or custodian, if known, to appear

before the general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the city animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Code of Virginia, § 3.1-796.119. The procedure for appeal and trial shall be the same as provided by law for misdemeanors.

(c) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass ~~or other tort~~ upon the premises occupied by the animal's owner or custodian or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, ~~or its owner~~ a person, or its owner's or custodian's property, shall be found to be a dangerous dog or a vicious dog.

(d) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

~~(e)~~ The owner of any animal found to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog registration certificate from the treasurer for a fee of fifty (\$50.00) dollars in addition to other fees that may be authorized by law. The treasurer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the State Veterinarian.

~~(f)~~ All dangerous dog registration certificates or renewal thereof required to be obtained under this section shall only be issued to persons eighteen (18) years of age or older who ~~submit an application therefor to the animal warden and~~ present satisfactory evidence (i) of the animal's current rabies vaccination; (ii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed; (iii) that the animal has been neutered or spayed; and (iv) that the owner has liability insurance coverage, to the value of at least one hundred thousand dollars (\$100,000.00) per incident, that covers animal bites, or a bond in surety, in lieu of liability insurance, to the value of at least \$100,000.00. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) the residence housing the dog is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

(gf) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape and to prevent direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

~~(g) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.~~

(h) The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under Code of Virginia, 3.1-796.93:3, within 45 days of such a finding by a court of competent jurisdiction. The owner shall also cause the city animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

~~(ih) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, notify cause the local animal control authority to be notified if the animal (i) is loose or unconfined; or (ii) bites a person or attacks another animal; or (iii) is sold, given away, or dies; or (iv) has been moved to a different address. Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.~~

(j) Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

1. Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is companion animal belonging to another person;

2. Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

~~(k) The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section shall be guilty of a Class 1 misdemeanor.~~

(l) All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by ~~the~~ this section, shall be paid into a special

dedicated fund in the treasury of the city for the purpose of paying the expenses of any training course required under Code of Virginia, § 3.1-796.405104:1.

~~(k) Notwithstanding the provisions of subsection (b), the animal control officer may determine, after investigation, whether a dog is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he may order the animal's owner to comply with the provisions of this section. If the animal's owner disagrees with the animal control officer's determination, he may appeal the determination to the general district court for a trial on the merits.~~

COMMUNICATIONS FROM CITIZENS

Katherine Podlewski, 507 North Second Avenue, Hopewell, addressed Council regarding the history of the old Patrick Copeland School. She urged citizens to remember as much of the history as possible (favorite teachers, best friends, etc.), and document it. The College of William and Mary suggested a record of Patrick Copeland history. Contractors dug up old bottles in Hopewell recently. She wondered if anything similar had been collected from the Patrick Copeland site.

Bobby Pershing, 901 Smithfield Avenue, Hopewell, addressed Council regarding the Police Chief and Interim Police Chief. Council must have patience and follow the proper procedure. He made a comparison to an episode of the Andy Griffith Show when Aunt Bea ran for office. Council must exercise patience, vision and reason for what is good for the community. He urged the hiring of qualified people. Council needs to go through the process correctly and fairly. He felt that Council should do their job and not micro-manage the City. Citizens hope they can.

Richard Saunders, 1005 Bank Street, Hopewell, responded to Councilor Cuffey's letter to the editor of the Hopewell News dated February 13, 2007. Mr. Saunders did some research. Councilor Cuffey would like to see Duke Ellis in the position of Interim Police Chief. According to Mr. Saunders, Mr. Ellis was the Support Services Coordinator in charge of the Evidence Room in the Police Department at the time that the evidence was discovered to be missing. How could Council support his appointment when drugs and evidence were missing? Mr. Cuffey has inaccuracies about the Police Chief and City Manager, and they should not have been printed in the newspaper. His comments should only reflect facts. Councilor Cuffey has shown an inability to deal honestly and he lacks integrity. Staff should be allowed to do their jobs without interference by Councilor Cuffey or other councilors. Council has scared away potential applicants for the positions of City Manager and Police Chief.

Marion Herbert, 711 Mansion Drive, Hopewell, responded to Councilor Cuffey's letter to the editor in the Hopewell News dated February 13, 2007. She quoted several passages in the article: "Who knows best what is good for the City of Hopewell." "Do outsiders know what is best for Hopewell?" She questioned his statement that only a few are competent. She asked Council if they offered Mr. Herbert the full-time position. And, was it a surprise that both the Interim City Manager and Interim Police Chief live outside the City. Council knew that when they hired them in the Interim positions. Where were the citizens of Hopewell when that decision was made? They were not asked for their opinions. Interim Chief Stanley was hired by City Council. Council urged former City Manager Alan Archer to hire him. Did Council not trust his judgment to hire a police chief? Maybe she should ask why Mr. Archer left, why Mr. Stanley does not want the position of Police Chief, and why Mr. Herbert does not want the position of City Manager. Councilor Cuffey further stated that the City spent \$400,000 on the demolition of Patrick Copeland School, and another \$400,000 to the Police Department to fight crime. The City is paying the Interim City Manager more than any other in the history of Hopewell. Council members approved that salary, not the citizens. Should we support our Police Department? Was it a mistake to tear down Patrick Copeland School? Who decided to pay the City Manager that salary? This City Council made those decisions, not the citizens! Councilor Cuffey said in his article that Council's recommendation to put in place one of Hopewell's own as Interim Police Chief was voted 5/2. Council is the employer of the City

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Manager. It is the City Manager's job to hire a Chief of Police. When Council interferes, it should not do that.

Cheryl Collins, 600 Brown Avenue (401 North Main Street-Beacon Theatre), Hopewell, gave a brief progress report on the Beacon Theatre. It has been open for business almost two years. This weekend there will be a Black History Month celebration on Saturday and Sunday, February 17 and 18. It will begin at 5:00 PM on Saturday, and 2:00 PM on Sunday. They are also promoting Hopewell and the Beacon Theatre. Everyone was invited to attend. Finally, she reported that they have finished the audit as a non-profit agency.

Christopher Smith, 1011 East Broadway, Hopewell, has been a member of the Hopewell Police Department for two years. He judges men on what he knows them to be. He cares about this Police Department and the people he works with. It bothers him to hear about the low-morale in the Police Department; but currently morale is not low. Over the last few months the Police Department has gotten closer. Interim Chief Stanley has brought more harmony to the Police Department. He put to rest all of the rumors. Mr. Smith thanked him publicly for that. He speaks for 30 individuals who talked to the City Manager recently. They respect Chief Stanley. Officer Smith reminded Council that he is not only a police officer but a citizen also. As a police officer Mr. Stanley is a good guy; but he also thinks that Duke Ellis would make a great chief. It seems that we will lose someone special when they lose Stanley.

The Communications from Citizens concluded at 8:07 PM.

PRESENTATIONS FROM BOARDS & COMMISSIONS

Libbie Newsom and Ken Roy gave a brief presentation from the Central Virginia Film Office Board. Ms. Newsom has been on the board for one year. The name has been changed to the Central Virginia Film Institute, and they are hosting the first Oscar Night Virginia at the Science Museum in Richmond. Ms. Newsom chaired a silent auction. They hope to see many of the Council members there. Each summer they sponsor Film Camp at the New Millennium Studios.

Ken Roy shared that the Hopewell community supports its arts and non-profit agencies. It also provides strong board members from Hopewell. He thanked Council for their continued support.

CITIZEN/COUNCILOR REQUEST – VICE MAYOR PELHAM – OUTSIDE AGENCY – SURVEY MORALE OF HOPEWELL POLICE DEPARTMENT

Vice Mayor Pelham expressed appreciation for the previous comments from Officer Smith. The City Manager did a verbal survey of the Hopewell Police Department. She would like an outside agency to do a survey of the overall morale in the department. The survey should be completed in a manner that would allow City Council to review the results. Council should be able to submit potential questions that they would like included in the survey as well.

DISCUSSION:

It has been over one year that there have been issues in the Hopewell Police Department. Last year Councilor Sealey pushed for a survey. The survey was done but he was not privy to the contents. Two weeks ago Council held a Special Meeting. Councilor Sealey met with the City Manager last Thursday for three hours. The City Manager expressed that he had met with many police officers. Mr. Sealey was comfortable that the City Manager had surveyed the Police Department; he has his finger on the pulse of the Police Department. He would rather a survey be done when a new permanent Police Chief is in place, then use that data to make decisions on what is important for the City and the Police Department.

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Councilor Bailey stated that it is always advisable to have an anonymous written survey. The survey would be an objective way to see what is going on. There has been lots of turmoil. Council has been in a position to make suggestions, etc. The survey should be done as soon as possible.

Councilor Harris indicated that if we are going to have a survey of the Police Department, he requested a survey of the Fire Department and all other departments within the City. The problem that we are undergoing is a simple problem. We allowed our politics to get the best of us and several things have happened to our City. He is tired of reading in the newspaper the negative things going on in Hopewell. We have a Council/Manager form of government. We have a City Manager who has the responsibility to take over the jurisdiction of administration. He must deal with all of his employees. If we cannot trust him, then we should get rid of him. The City Council hires the City Clerk, City Attorney and City Manager. That is the law.

Vice Mayor Pelham stated that this is just a survey for feedback. What Council did was to make a recommendation to the City Manager on January 25, 2007,

“to strongly recommend that the current Interim City Manager hire Melvyn D. Ellis as Co-Interim Chief of Police immediately under the same terms as the current Interim Chief of Police, contingent upon Mr. Ellis’ acceptance of this position, and upon his contractual obligations to his present employer. The motion continued to strongly recommend that the full-time Chief of Police selection process continue under the same terms as set forth by the former City Manager and City Council and that the permanent selection be made at the conclusion of the six month term, during which the City Manager and City Council work together to create a selection panel.”

“The City Manager then proceeded to advise Council that he had spoken at length with Councilor Sealey regarding this issue, and that essentially he agreed with what the City Attorney had said and that he will take their motion as a recommendation. However, he and Councilor Sealey had not discussed the remainder of the contents of the motion as presented by Councilor Cuffey.”

The Vice Mayor stated that she stands by her motion. She wants to know the true feelings of police officers. The fact that the City Manager did not take the recommendation is okay with her.

Councilor Harris indicated that he was not finished with his comments. Mayor Taylor apologized and Councilor Harris was allowed to continue. Twenty years ago he became a member of this Council. He has seen City Managers come and go. All of them made their own decisions regarding the staff that was hired. He never interfered during those 20 years. It is most appropriate for the City Manager to make the decisions. What Council did at the Special Meeting on January 25, 2007 was to “strongly recommend” that the City Manager hire someone in particular as Interim Police Chief. Five members of Council were hanging on to that. Councilor Harris said then that as the City Manager, if Mr. Herbert has any integrity at all, he will stick with his responsibility as City Manager. Councilor Harris strongly disagreed with the present motion.

Councilor Emerson pointed out that this is a very fragile situation. It is politically driven to have an audit [survey]. An outside consultant means high dollars. He strongly disagrees that they do anything right now, with Council going in a direction to heal these wounds. He is against this action and wants it defeated.

Councilor Cuffey appreciated the Vice Mayor’s suggestion. Regarding the law, his motion of January 25, 2007 was strictly a recommendation. He read into the record a section of the *Virginia Freedom of Information Act & Conflicts of Interests Act, 2006 Edition*.

Personnel Matters

Section 2.2-3711 authorizes a closed meeting for “[d]iscussion, consideration or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of any public body.”

The most significant requirement in the subsection is that the discussion be about one or more specific people. This limitation means that the council may not discuss general personnel issues in a closed meeting. For example, the council would not be authorized to meet behind closed doors to discuss a pay plan or setting salaries for all employees. It could, however, meet to discuss the pay increase to be given an employee or appointee, based on the council's discussion in the meeting of the employee's performance.

Note that the section applies to three classes of public officials: public officers, public appointees or employees of the public body. This means that the council could discuss the performance of a specific planning commission member in closed meeting, since that person is an appointee of the council.

Two attorney general opinions have clouded the value of the section for discussing most of its employees and some other public officials. In an opinion issued Dec. 16, 1998, the attorney general opined that a council may not hold a closed meeting to discuss employees who are not directly employees by the council. The opinion states that only the manager, clerk and city attorney could be discussed in closed meeting, based on the argument that only those three employees are under the “full supervisory authority” of the council under the city charter. The attorney general confirmed his opinion in an opinion dated May 18, 2000, which was written in response to a request for reconsideration (20000 WL 875260).

Many local government attorneys, as well as VML, disagree with this opinion. The specific language of the subsection allowing a closed meeting for personnel matters, quoted above, only states that the individual must be an employee of the public body. The opinion limits the term “employee of the public body” in a way that is inconsistent with the common understanding of the authority of a city or town council over all employees, not just those who report directly to the council. If a council directs the manager to fire an employee for a problem it discussed in closed meeting, the manager would be expected to fire the individual. Direct supervisory control by council may not exist, but the council retains the ultimate responsibility for hiring and firing. This authority puts all employees into the category of those who may be discussed in closed session.

Councilor Cuffey supported Vice Mayor Pelham and her recommendation.

Mayor Taylor recognized the former City Manager, Clint Strong in the audience. He served the City for 24 years, and the Mayor thanked him. Mayor Taylor feels that the City Manager should manage the City. Council should set policy, but he appreciated the Vice Mayor's efforts.

Councilor Bailey thanked Councilor Cuffey for reading the information from the VML publication on personnel matters for closed session. There has been confusion about closed session matters. Personnel issues are sensitive. She referred to the first meeting of this Council in July 2006. She agreed with Councilor Harris to do a survey of the employees in general in the City. A former City Manager, Peter Bine, had very domineering tactics which lowered the morale of City employees. Some of his decisions still affect the employees. An anonymous survey would be appropriate. Outside agencies would develop a survey; the employees would fill out the survey; and, the agency would get information from the survey. It could have a positive effect on the City's employees.

Vice Mayor Pelham indicated that it would be something for the incoming Police Chief to look at. She wants to know the truth because she has heard so many stories.

Councilor Harris shared that every department has an evaluation process. Even the City Council evaluates the City Manager, City Clerk and City Attorney. He brought forth many proposals to Council before he was elected. Many of those proposals were shot down.

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Councilor Emerson clarified that Councilor Cuffey and Councilor Bailey favor closed session discussion about any employment in the City. But this Council will only talk about the City Manager, City Attorney or City Clerk. They are not allowed to talk about anyone else. Councilor Harris said it eloquently.

Councilor Cuffey has no desire to discuss anyone else in closed session except the City Manager, City Attorney or City Clerk.

Councilor Harris referred to the contradiction in the *Virginia Freedom of Information Act & Conflicts of Interests Act* publication. The Attorney General does not agree with what VML said. We must adhere to the Attorney General's opinion until or unless there is something better.

Motion was made by Vice Mayor Pelham, and seconded by Councilor Bailey, to hire an outside agency to conduct a survey of the overall morale of the Police Department. Upon the roll call on the motion, the vote resulted:

Mayor Taylor	-	NO
Vice Mayor Pelham	-	yes
Councilor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	NO
Councilor Emerson		NO
Councilor Sealey	-	NO

CITIZEN/COUNCILOR REQUEST – COUNCILOR BAILEY – START INITIATIVE PRESENTATION

Councilor Bailey introduced Julie Taylor who gave a brief presentation on the START Initiative. Ms. Taylor is affiliated with John Randolph Medical Center and Dr. Cliff Morris.

Ms. Taylor provided a handout with information concerning the American Heart Associations START! Program. Physical inactivity significantly increases the risk of cardiovascular disease, our nation's No. 1 killer. Seventy percent of Americans don't get enough exercise, blaming lack of time and lack of motivation. Ignoring fitness and health increases changes for heart disease, stroke and other diseases. The average American employee works 47 hours a week, more than only 20 years ago. She urged City Council to consider a walking program to implement 30 minutes of walking into the employees' workday. The City provides an excellent one-mile walk area at the Riverside Walk behind the John Randolph Medical Center. "Get Walking America" is scheduled for April 25, 2007. Ms. Taylor explained "walking meetings" as taking walk breaks during long meetings.

CITIZEN/COUNCILOR REQUEST – MAYOR TAYLOR & COUNCILOR SEALEY – DRAFT AMENDMENT TO SEC. 203 OF COUNCIL RULES AND PROCEDURES

Mayor Taylor explained that the proposed amendment to Sec. 203 of Council Rules and Procedures was a suggestion to streamline the debate process on a motion. The goal is to arrive at decisions and move forward. The City Attorney drafted an amendment to Council Rules. The proposal is to allow each Council member to be recognized once and then once again for rebuttal comment.

Councilor Sealey indicated that he has been on many civic and volunteer boards in the City. The longer the meeting went on the less was accomplished. Council must study their agenda packets and be prepared for discussion and take a vote. He does not like to see long discussion with the same thing said

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over and over. It is wasting the citizens' time. Citizen participation means that they are interested, and there have been large numbers in the audience.

Councilor Bailey pointed out that debate on issues is important to making decisions and setting policy. Since they cannot discuss prior to the meeting, they are limited in their opportunity for discussion. The different perspectives of Council on a decision are important to the process. Limited discussion does not sound like a good idea. Councilor Bailey asked the City Attorney about whether amending the rules requires a two-thirds majority vote, according to Robert's Rules of Order.

Councilor Harris has some concerns with the proposal, and it scares him. Council should give all of the opportunities that Councilors need in order to discuss any and all matters. If it is limited, then when can they determine which issues can continue to be discussed? Or how long can they deal with the matter? They could be in the middle of the discussion and Council would have to be polled on whether or not to continue discussion. Matters before the Council require a vote. If all members are not ready to vote then discussion must continue. It is to our advantage to keep our rules as they are. Keep the rules as they are.

Vice Mayor Pelham indicated that the procedure is already in place, to call for the question. Each Councilor represents approximately 2500-3000 people in each ward. Council should not limit the citizens' ability to speak either. Council should be able to discuss issues as long as necessary.

Councilor Emerson liked this motion. Council had a Special Meeting and everyone had a time limit to speak. The proposal allows the right to speak a second time.

Vice Mayor Pelham feels that Council should be able to express themselves as many times as they desire.

Councilor Emerson pointed out that lengthy discussion can become repetitious. There should be some controls.

Councilor Cuffey favors no limitation on citizens' or Council members' comments. He believes they have the ability to speak their minds. He appreciated all the comments of Council and citizens.

The City Attorney confirmed to Councilor Bailey that amending the rules regarding debate limitations does require a two-thirds majority vote, according to Robert's Rules of Order.

Motion was made by Councilor Sealey, and seconded by Councilor Emerson, to amend Sec. 203 of Council's Rules & Procedures to limit the number of times a Councilor may speak to each motion. Upon the roll call, the vote resulted:

Mayor Taylor	-	yes
Vice Mayor Pelham	-	NO
Councilor Cuffey	-	NO
Councilor Bailey	-	NO
Councilor Harris	-	NO
Councilor Emerson	-	yes
Councilor Sealey	-	yes

REGULAR BUSINESS – AUDIT REPORT FOR THE YEAR ENDED JUNE 30, 2006

Finance Director, Elesteen Hager, introduced Ann Wall of Robinson, Farmer, Cox Associates, who presented the audit for the year ended June 30, 2006. The City's internal control structure was

considered to plan auditing procedures for the purpose of expressing their opinion on the financial statements and not to provide assurance on the internal control structure.

Tax Reconciliations:

During the course of audit fieldwork it was noted that real estate, personal property and public service corporation tax revenues and receivables were being reviewed and reconciled on an annual basis. Adjusting journal entries were made only at year-end to the general ledger as tax revenue and receivable accounts were fully reconciled at June 30, 2006. As these taxes are assessed by the Commissioner of the Revenue, billed and collected by the Treasurer, reviewed and reconciled by the Finance Department based on reports received from the Information Technology Department, it was recommended that reconciliations be prepared on a more timely basis. Interim reviews and reconciliation of taxes, revenues, and receivables during the year would help ensure that interim City financial statements are accurate and complete.

Capital Asset Reporting:

It was noted that during the course of audit fieldwork that capital asset reporting is accomplished only on an annual basis and the responsibility for capital asset reporting is divided among several different departments. It was recommended that the responsibility for capital asset reporting be assigned to a specific department or individual and the recording of capital asset additions, deletions, the calculation of depreciation expense and the monitoring of capital asset accounting be perpetually maintained. It was also recommended that the City Finance Department continue its efforts to prepare for the retroactive reporting requirements required under GASB 34 for infrastructure reporting for the FY07 fiscal year.

REGULAR BUSINESS – VIRGINIA RECREATION TRAILS FUND PROGRAM – GRANT APPROVAL - RESOLUTION

The Department of Recreation and Parks asked for Council's approval to apply for a third grant of the Virginia Recreation Trails Fund Program. That grant is through the Commonwealth of Virginia, Department of Conservation and Recreation. The program is offered on an 80/20 matching basis. Cost of this Riverside Trail is estimated to be \$37,468, which encompasses the survey tract between Riverside Park and the City Marina. The grant reimbursement from the State would be \$29,974.00 and the City's match of "In-Kind Services" would amount to at least \$7,494.00. This is the identical grant program that was approved for the Cabin Creek Trail several years ago.

While this is an 80/20 matching grant, all of the matching funds are "In-Kind Services," which is allowed by the grant. The Virginia Recreation Trails Fund Program will furnish the bulk of the project (80%).

The reimbursement program requires that the City be responsible for financing the project while requesting periodic reimbursements. The Recreation Fund was recommended for that purpose.

The project is the continuation of a unique and exciting plan of trail development in the City which will link the recreational sites of Riverside Park with the Hopewell City marina. Users and visitors to these sites will be able to safely walk, jog, or bike between these areas.

Motion was made by Councilor Emerson, and seconded by Vice Mayor Pelham, to resolve to approve application for a third grant of the Virginia Recreation Trails Fund Program, in the amount of \$29,974.00, with an 80/20 match of "In-Kind Services." Upon the roll call, the vote resulted:

Mayor Taylor	-	yes
Vice Mayor Pelham	-	yes

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Councilor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson		yes
Councilor Sealey	-	yes

RESOLUTION

A RESOLUTION BY THE COUNCIL OF THE CITY OF HOPEWELL IN SUPPORT OF AN APPLICATION TO THE VIRGINIA DEPARTMENT OF CONSERVATION AND RECREATION FOR FUNDS TO CONSTRUCT A PAVED TRAIL FOR PEDESTRIAN USE, LINKING THE PROPOSED RIVERSIDE TRAIL WITH THE HOPEWELL CITY MARINA.

WHEREAS, the Virginia Department of Conservation and Recreation has announced that it will accept applications for grant funds under the Virginia Recreational Trails Fund Program; and

WHEREAS, the City of Hopewell, Virginia, is the owner of the tract of property upon which is situated Riverside Park; and

WHEREAS, the City of Hopewell has proposed to construct a paved trail for pedestrian use, linking the proposed Riverside Trail with the Hopewell City Marina; and

WHEREAS, the City of Hopewell has established a budget of \$37,468.00 for this project, with \$29,974.00 (80%) to be requested in grant funds in accordance with the Trails Fund Program, and the remaining \$7,494.00 (20%) to be contributed by the City of Hopewell as a sponsor-match.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hopewell, that Council approves the submittal of a grant request to the Virginia Department of Conservation and Recreation as outlined above, along with the projected sponsor-match, in order to construct a trail linking Riverside Park with the Hopewell City Marina.

REGULAR BUSINESS – CHIEF TUNSTALL – APPROVAL FOR BUREAU OF FIRE TO APPLY FOR A GRANT FROM THE JOHN RANDOLPH FOUNDATION

The Bureau of Fire is requesting approval to apply for a grant from the John Randolph Foundation for the Spring Cycle of 2007. The John Randolph Foundation is a community-based foundation working to improve the health and quality of life for residents of Hopewell and surrounding areas through Grants and Scholarships.

The Bureau of Fire is applying for a grant to enhance our emergency medical services delivery capability. This enhancement program consists of purchasing and installing Pharm Guard Units on all of our advance life support vehicles and purchasing an Auto Pulse. The Pharm Guard Units will maintain IV fluids and medications within the required temperature range (60-80 degrees) at all times of the year. The Auto Pulse is designed to be placed on a patient who has gone into cardiac arrest and will provide consistent and non-interrupted chest compressions during resuscitation.

The total cost for this project is \$27,000.00. The grant is a 75% to 25% match. The grant portion will be \$20,250.00 and the City's portion is \$6,750.00. If this grant is awarded, the City's portion will be taken from the Fire EMS budget.

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Motion was made by Councilor Sealey and seconded by Councilor Harris to approve application for the grant from the JRF. Upon the roll call, the vote resulted:

Mayor Taylor	-	yes
Vice Mayor Pelham	-	yes
Councilor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson		yes
Councilor Sealey	-	yes

REGULAR BUSINESS – APPOINTMENTS TO BOARDS AND COMMISSIONS

There were no appointments.

REGULAR BUSINESS – LEGISLATIVE COMMITTEE REPORT

Herbert Bragg, Legislative Liaison, presented the Legislative Committee report. Handouts (filed in the City Clerk's office) were distributed to Council members, including: two VML Legislative Bulletins dated February 7, 2007 (cross-over report) and February 9, 2007 (which included SB 1102 Billboard relocation). Also presented was an update on Action Call-Eminent Domain, Statewide Transportation Funding and Land Use Proposals in HB 3202, letters to the Honorable Frederick M. Quayle and the Honorable Timothy M. Kaine.

REGULAR BUSINESS – R C & D, VICE MAYOR PELHAM

Vice Mayor Pelham reported that the RC&D is interested in capping wells in Hopewell. She asked staff to outline what wells may need to be capped in Hopewell.

REPORTS OF CITY COUNCIL MEMBERS

Councilor Bailey thanked those who attended the Downtown Partnership meeting on February 12, 2007, especially Vice Mayor Pelham. At all Council meetings when citizens ask questions or make statements they may not always reflect the facts. Council cannot answer or correct them during Communications from Citizens. She suggested a Town Hall Meeting in the very near future for the purpose of open dialogue and to answer citizen questions. She would like the meeting to be held in the next two or three weeks. She asked Council to suggest a place other than Council Chambers.

(Mayor Taylor interjected that Reports of Council is not the appropriate part of the meeting for Council to take action on any issue. Councilor Bailey indicated that she was making a suggestion. She will schedule it and hopes that Council members will attend.)

Councilor Cuffey thanked God for America and freedom of speech. He received many suggestions, even strong suggestions. He appreciated each and every person's comments. He looks forward to moving forward on other things. He is working on a Black History calendar for February that he will present at the next meeting on February 27, 2007. He is also working on a drug prescription program to come before Council in March. It will help impact the cost of prescriptions. He looks forward to possibly implementing the program in Hopewell.

Councilor Sealey stated that there have been lots of discussions with developers. He was able to be in on one of those meetings last week. When developers talk about the City of Hopewell, they only

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talk about the positive issues: schools, the community, etc. Some of these development opportunities will come before the public.

Councilor Emerson visited the Downtown Partnership meeting last night at the John Randolph Medical Center. He noticed a severe lack of business owners, the Beacon Theatre, Chamber of Commerce, etc. That committee needs lots of help. The City has invested lots of money in the downtown; we need citizen involvement. In another matter, the HRWTF Commission, which he chairs, is continuing to try to find a way to deal with nitrogen reduction.

Vice Mayor Pelham asked for any professionals or interested persons to speak at the Hopewell High School Career Day to contact Betty Ware at 541-6402. Great Virginia Teaching will be held on March 17 for college graduates to apply from all over the state for teaching positions. She thanked the City Manager and/or the Mayor who invited the Employee of the Quarter. It is good for citizens to know about the City's employees. Since she has been on Council, they have always agreed to disagree, and she looks forward to working with Council to build a more positive relationship. She stands by her recommendations. Regarding Councilor Bailey's proposed Town Hall meeting, consider having it at the Beacon Theatre, John Randolph Medical Center, or the John Randolph Foundation.

Mayor Taylor wished everyone a Happy Valentine's Day.

ADJOURN

At 10:28 PM, motion was made by Councilor Emerson, and seconded by Councilor Sealey, to adjourn the meeting. Upon the roll call, the vote resulted:

Mayor Taylor	-	yes
Vice Mayor Pelham	-	yes
Councilor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson		yes
Councilor Sealey	-	yes

Steven R. Taylor, Mayor

Ann M. Romano, City Clerk